CP/202 (1)

BEFORE THE HON'BLE HIGH COURT OF CHHATTISGARH
AT BILASPUR

27-02-07

WRIT APPEALS NO. 50 /2007

U/S 2(1) of the C.G. High Court (Appeal to D.B.) Act 2006

~~(Under Rule 157(10) of the Chhattisgarh High Court Rules)~~

PETITIONER

Khemlal Verma, S/o. Rikhiram Verma, Aged about 31 years, R/o. Village – Baikunth, Tehsil Tilda, District Raipur (C.G.).

P.R. No. 14767 Roop Naik
Presented on 20/2/07
dated

VERSUS

RESPONDENTS

1. State of Madhya Pradesh, Through the Secretary, Mineral Resources Department, Vallabh Bhawan, Bhopal (M.P.) Now Raipur (C.G.).

2. The Collector, Raipur (C.G.).

3. The Deputy Collector, Raipur (C.G).

4. The Mining Officer, Raipur (C.G.)

5. Ghanaram, S/o.Samaru Yadav, Aged about 52 years, R/o. Village Bitkuli, Tahsil - Simga, District Raipur (C.G.).

6. Bisram, S/o. Samaru Yadav, Aged about 45 years, R/o. Village Bitkuli, Tahsil - Simga, District Raipur (C.G.).

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HIGH COURT OF CHHATTISGARH : BILASPUR

W. A. No. 50 of 2007

Appellant		Khemlal Verma
	Versus	
Respondents		State of Madhya Pradesh (Now Chhattisgarh) & others

WRIT APPEAL UNDER SECTON 2 OF THE CHHATTISGARH HIGH COURT (APPEAL TO DIVISION BENCH) ACT, 2006

DB: Hon'ble Dr. I. M. Quddusi,
& Hon'ble Mr. G. Minhajuddin, JJ.

Shri Rahul Tamaskar, Advocate for the appellant.

Shri Rajendra Tripathi, Panel Lawyer for the respondents No.1 to 4.

Shri Amritanshu Bajpai, Advocate for the respondents No. 5 & 6.

O R D E R (oral)

(Passed on this 3rd day of February, 2012)

Per I.M.Quddusi, J.

1. Heard learned counsel appearing for the appellant as well as learned counsel appearing for the respondents.

2. This writ appeal has been filed against the impugned order dated 15th September, 2004, passed by learned Single Judge in W.P. No. 5411/1999 (Khemlal Verma Vs. The State of Madhya Pradesh & others).

3. Brief facts of the case are that on 22.2.1989 the petitioner applied for grant of license for extracting stones in the mining area admeasuring 2.12 hectares, bearing Khasra Nos. 402/11 and 402/12, village – Bitkuli, Tahsil Simga, District Raipur. After inviting objections from all concerned and making due enquiry the

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State Government granted license to the petitioner by order dated 22.4.1991. After expiry of the lease period further objections were invited on 6.11.1992, wherein the petitioner submitted no-objection certificate on 20.10.1993 obtained from Ghanaram and Bisram (respondents No. 5 and 6, respectively, in the writ petition) to whom the land in question was granted by the State Government. Thereafter, the respondents No. 5 and 6 made a complaint to the concerned authorities that the petitioner had obtained forged agreement from them. That complaint was enquired into by the Collector (Mining), police authorities as well as by Naib Tahsildar and they found the complaint as baseless. Subsequently, on 27.6.1997 the Collector executed a regular lease deed in Form-K in favour of the petitioner for a period of 20 years, whereunder the petitioner was carrying on mining operation by paying royalty and monthly rent.

4. Thereafter, the respondents No. 5 and 6 filed W. P. No. 3669/1997, wherein vide order dated 12.4.1997 the Collector was directed to conduct an enquiry within three months to find out the authenticity and veracity of the consent letter said to have been given by the respondents No. 5 and 6 in favour of the petitioner. After conducting enquiry the Collector submitted his report on 19.7.1999 on the basis of which by order dated 25.11.1999 the Additional Secretary, Mining Department of erstwhile State of Madhya Pradesh cancelled the lease dated 12.2.1997. Being aggrieved, the petitioner filed W. P. No.5411/1999 which was dismissed vide impugned order dated 15.9.2004 on the ground that the petitioner did not produce the original consent letter given by

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the respondents No. 5 and 6 even after affording several opportunity to him therefore his lease deed was rightly cancelled.

5. Earlier, vide order dated 23.3.2007 passed by this Court the instant writ appeal was dismissed, finding that no appeal lies under Section 2 of the Chhattisgarh High Court (Appeal to Division Bench) Act, 2006 against an order passed by a Single Bench exercising powers under Article 227 of the Constitution of India. However, on an appeal preferred by the appellant, Hon'ble Supreme Court vide order dated 19th September, 2011 passed in Civil Appeal No. 7990/2011 set aside the earlier order dated 23.3.2007 and remanded back the matter to this Court for decision on merits.

6. Learned counsel appearing for the appellant submits that there was no necessity even for the consent of the respondents No. 5 and 6 in granting the lease. The lease was already granted and it was cancelled on the alleged complaint of the Respondents No. 5 & 6. However, learned counsel has also submitted that an amicable settlement has been made between he writ appellant and the respondents No. 5 and 6, which is already on record of the appeal, filed with the reply of the respondents No. 5 and 6, dt. 3.1.2012.

7. It is apparent that the above aspect, whether there was any necessity for consent letter of the respondents No. 5 and 6 has not been considered by the concerned authority while canceling the lease deed. Further, what would be the impact on arriving at the settlement between the writ appellant and the respondents No. 5 and 6 is also liable to be seen.

8. In view of the above, we allow this writ appeal in part, set aside the impugned order dated 15.9.2004 passed in W.P. No.5411/1999 as well as the order dated 25.11.1999 (Annexure P/20 in the writ

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petition) and remit back the matter to the concerned authority i.e. the Additional Secretary, Mining Department, State of Chhattisgarh, Mantralaya, Raipur, to reconsider the above questions, put forth in Paragraph No.7 of this order, and take a decision afresh in the light of the observations made herein above.

9. The decision shall be taken, as early as possible, preferably within a period of four months from the date of appearance of the parties i.e. 21.3.2012, keeping in mind that the period of lease, which was granted to the appellant, is going to end in the year 2017.

10. No order as to costs.

Sd/-
Dr. I.M. Quddusi
Judge

Sd/-
G. Minhajuddin
Judge

Thakur